

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 6542

BILL NUMBER: SB 140

NOTE PREPARED: May 9, 2005

BILL AMENDED: Mar 24, 2005

SUBJECT: Use of Charity Gaming Proceeds.

FIRST AUTHOR: Sen. Paul

FIRST SPONSOR: Rep. Saunders

BILL STATUS: Enrolled

FUNDS AFFECTED: **GENERAL**
 X DEDICATED
 FEDERAL

IMPACT: State

Summary of Legislation: *Use of Proceeds and Expense Provisions:* The bill prohibits the Department of State Revenue (Department) from adopting a rule requiring a qualified organization to use a minimum percentage of its gross receipts from allowable events for its lawful purposes. The bill eliminates the Department's authority to set by rule the allowable expenditures of a qualified organization with respect to an allowable event. The bill sets forth the expenses that may be subtracted from gross receipts to determine a qualified organization's net proceeds from an allowable event. The bill voids certain rules adopted by the Department regarding the use of charity gaming proceeds and voids a rule limiting the amount of rent that may be charged to rent personal property.

Annual Door Prize License: The bill authorizes certain nonprofit business organizations to conduct door prize events and authorizes an annual door prize event license.

Leasing of Certain Personal Property for Raffles: The bill defines certain items used to conduct raffles as qualified personal property. The bill prohibits the Department from adopting a rule or otherwise limiting the rent that may be charged to lease qualified personal property. The bill provides that a person who leases qualified personal property to a qualified organization is not an operator or a worker for the allowable event. It prohibits the Department from denying a qualified organization's application for a charity gaming license on the basis of the rent charged to the qualified organization to lease qualified personal property.

Effective Date: Upon passage.

Explanation of State Expenditures: *Annual Door Prize License:* The bill establishes a new annual door prize

license, and provides that certain tax exempt business organizations such as business leagues and chambers of commerce are eligible for this license. The bill also provides that other charity gaming organizations are eligible for the new annual door prize license. The Department of State Revenue's current level of resources should be sufficient to implement this new charity gaming license.

Explanation of State Revenues: *Use of Proceeds and Expense Provisions:* The bill does the following:

- (1) specifically voids existing use of proceeds rules (45 IAC 18-3-7 and 45 IAC 18-3-8) adopted by the DOR;
- (2) prohibits the Department of State Revenue (DOR) from requiring charity gaming licensees to use a minimum percentage of the gross receipts from charity gaming events for charitable purposes;
- (3) repeals the DOR's authority to set the allowable expenditures of a charity gaming licensee for purposes of a charity gaming activities;
- (4) specifies the expenses that a licensee may subtract from its gross gaming receipts to compute its net charity gaming proceeds;
- (5) voids DOR rules that generally limit an organization from paying more \$50 in total for personal property that may be used by the organization to conduct a charity gaming event.

Current law unchanged by the bill limits the use of net charity gaming proceeds to the lawful purposes of the licensee.

The provision of the bill described in (1) above specifically voiding existing use of proceeds rules in 45 IAC 18-3-7 and 45 IAC 18-3-8 has no impact, because Marion Superior Court No. 10 issued an order in Cause No. 49d10-0306-PL-01148, enjoining the DOR from enforcing any part of the rules adopted in LSA Document #02-40 filed on March 10, 2003. This ruling was not appealed by the state. (Note: The DOR filed new use of proceeds rules on February 1, 2005 in LSA Document #04-292.)

The general prohibition on use of proceeds rules by the DOR described in (2) above could have a fiscal impact to the extent that this prohibition would *mitigate* the fiscal impact of proposed rules that could cause existing licensees to discontinue charity gaming. It was estimated that the prior proposed "use of proceeds rules (#02-40) and the current proposed "use of proceeds rules (#04-292) would result in fewer licensees, and potentially reduce revenue from charity gaming license fees. This analysis is dependent upon whether patrons shift their charity gaming expenditures to other licensees and the impact these rules have on their gross charity gaming receipts.

Background: Under current statute, the DOR is authorized to adopt rules: (1) for the establishment, implementation, and operation of allowable charity gaming events; and (2) to set the allowable expenditures of a qualified charitable organization with respect to allowable charity gaming events. Current statute also specifically requires that all net proceeds from allowable charity gaming events must be used for the charitable purposes of the organization. The DOR filed rules on March 10, 2003 (LSA Document #02-40), and on February 1, 2005 (LSA Document # 04-292), that included the minimum use of proceeds requirements specified in the table below.

Annual Charity Gaming Gross Receipts	Percent to be Used for Charitable, Community, or Educational Purposes of the Organization
Less than \$150,000	5%
\$150,000 to \$500,000	8%
More than \$500,000	10%

The rules provided for the suspension or revocation of a charity gaming license in the event an organization doesn't comply with the use of proceeds requirements. Under the rules, suspensions would have lasted for a period of time determined by the DOR, but revocations would have been permanent.

Annual Door Prize License: The bill establishes an annual door prize license authorizing a qualified organization to conduct door prize events on more than one occasion during the year. The annual door prize license could be obtained by bona fide civic, educational, political, religious, senior citizens, or veterans organizations currently eligible for charity gaming licenses. In addition, the bill provides that tax exempt business leagues, chambers of commerce, real estate boards and other similar organizations with the purpose of improving conditions in one or more types of businesses are eligible to obtain the annual door prize license. However, these organizations would not be eligible to obtain other types of charity gaming licenses. As with other charity gaming licenses, the bill provides for the fee for the annual door prize license to be set by the DOR. These provisions could potentially increase revenue from charity gaming license fees. However the impact is indeterminable.

Background: Current law permits a bona fide civic, educational, political, religious, senior citizens, or veterans organization to hold a charity gaming license for purposes of conducting charity gaming events. Current law for a door prize license, however, the license only applies to conducting one door prize event at a particular time and location. Allowable charity gaming events consist of bingo, charity nights, raffles, door prize events, festivals, and sale of pull tabs, punchboards, and tip boards. In FY 2004, 2,193 charity gaming licences were issued by the DOR resulting in about \$3.8 M in license fees. The Charity Gaming License Fee is based on the total gross revenue earned from charity gaming by a licensed organization. The initial license fee is \$25. The subsequent license fee can range from \$25 for organizations with less than \$15,000 in charity gaming gross revenue to \$25,000 for organizations with at least \$3.0 M in charity gaming gross revenue. In FY 2004, charity gaming events resulted in approximately \$538.8 M in gross revenue, with event expenses totaling about \$463.1 M. The net proceeds retained by the charitable organizations, or given to unrelated charitable organizations, totaled about \$75.8 M.

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: Department of State Revenue.

Local Agencies Affected:

Information Sources: Department of State Revenue. Indiana Department of Revenue, *Charity Gaming Annual Report, November 1, 2004*.

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